

SOCIAL MEDIA & PROFESSIONAL BOUNDARIES: LEGAL & ETHICAL PERSPECTIVES



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DISCLAIMERS

- ✓ This information is not intended as legal advice. For specific advice, please contact legal counsel



OUTCOME

The learner will be able to describe how social media opportunities and related technologies can result in violations of nursing laws, rules, & professional ethics in their practice.

TOP SOCIAL MEDIA HEADLINES

- **Nursing-home residents ridiculed in social-media photos – The Columbus Dispatch: January 31, 2016**

Several central Ohio advocates are calling for increased training and penalties after a national investigation uncovered numerous incidents of health-care workers posting humiliating and dehumanizing photos of elderly patients on social-media sites.

- **Source: Joan Rivers' doctor took selfie, began biopsy before her cardiac arrest – CNN: November 11 2014**

The doctor, who has not been publicly identified, took a selfie photo in the procedure room while Rivers was under anesthesia, the source said.

- **PATIENT RECORDS DOCTOR'S INSULTS DURING SURGERY, WINS \$500,000 LAWSUIT –ABC13 NEWS- JUNE 2015**

"And really, after five minutes of talking to you in pre-op, I wanted to punch you in the face and man you up a little bit," a doctor can be heard saying in a recording at the center of a lawsuit.

GETTING STARTED

What is a Professional Boundary?

What is “social media”?

- **Electronic or web-based technology**
- **Used to communicate with others**
- **Social networking sites**
- **Video/movie sites**
- **Cell phone, photographic or video camera**
- **Blogs**

SOCIAL MEDIA AND YOU

- CHAT ROOMS
- AOL INSTANT MESSENGER
- MYSPACE
- FACEBOOK
- TWITTER
- INSTAGRAM
- LINKEDIN
- SNAPCHAT
- PERISCOPE
- YOUTUBE
- VOXER
- BLOGS

SOCIAL MEDIA'S PURPOSE

WHAT IS THE PURPOSE OR CONCEPT OF SOCIAL MEDIA?

- “Bring people together”
- “Enable people to communicate”
- “Information sharing”

SOCIAL MEDIA

Social Media Guidelines for Nurses

- Thoughts?



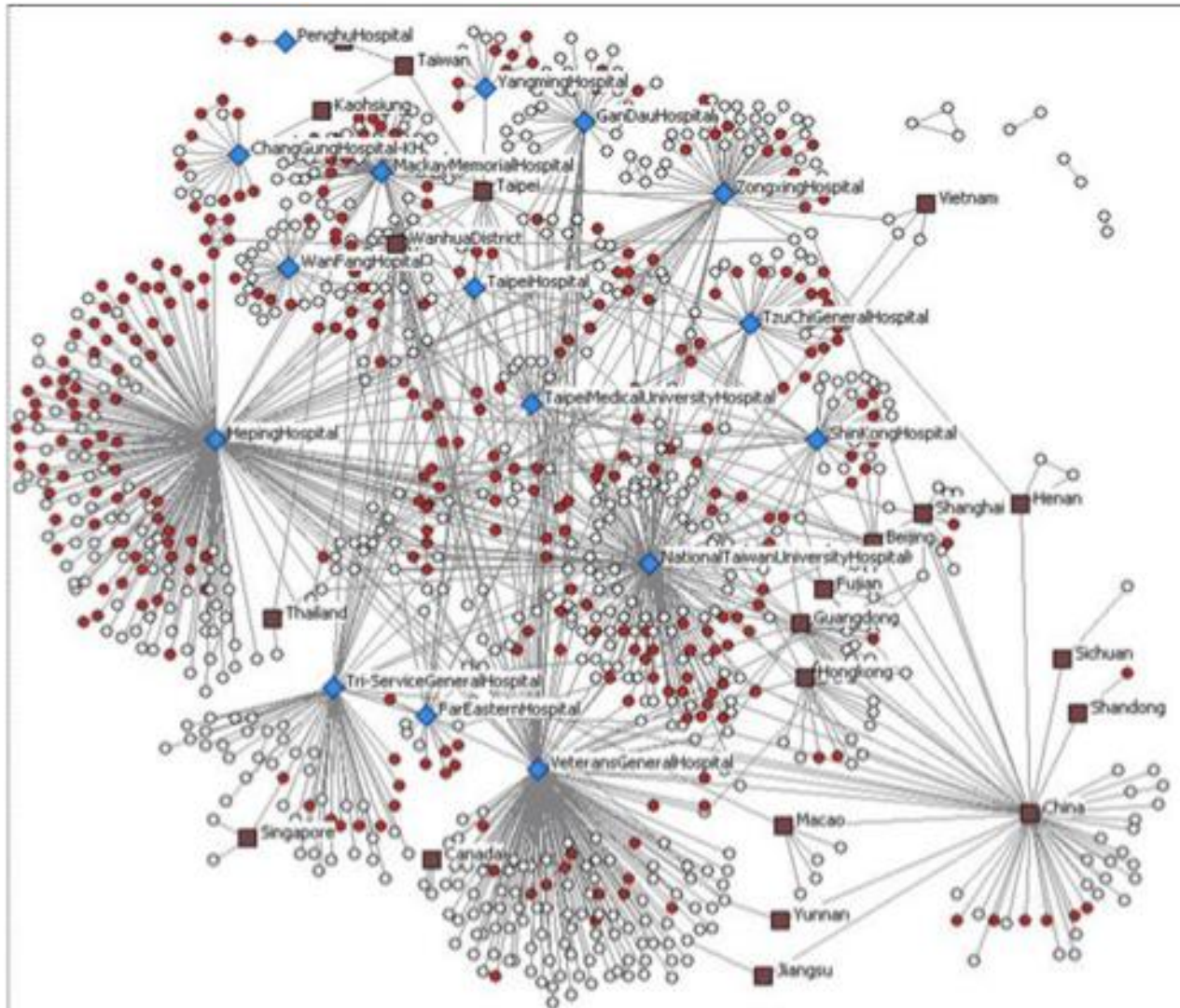
OHIO BOARD OF NURSING

Does 4723 ORC or OAC address it?

- Little specific language
- Inferred from rules
 - Chapter 4723-4 OAC

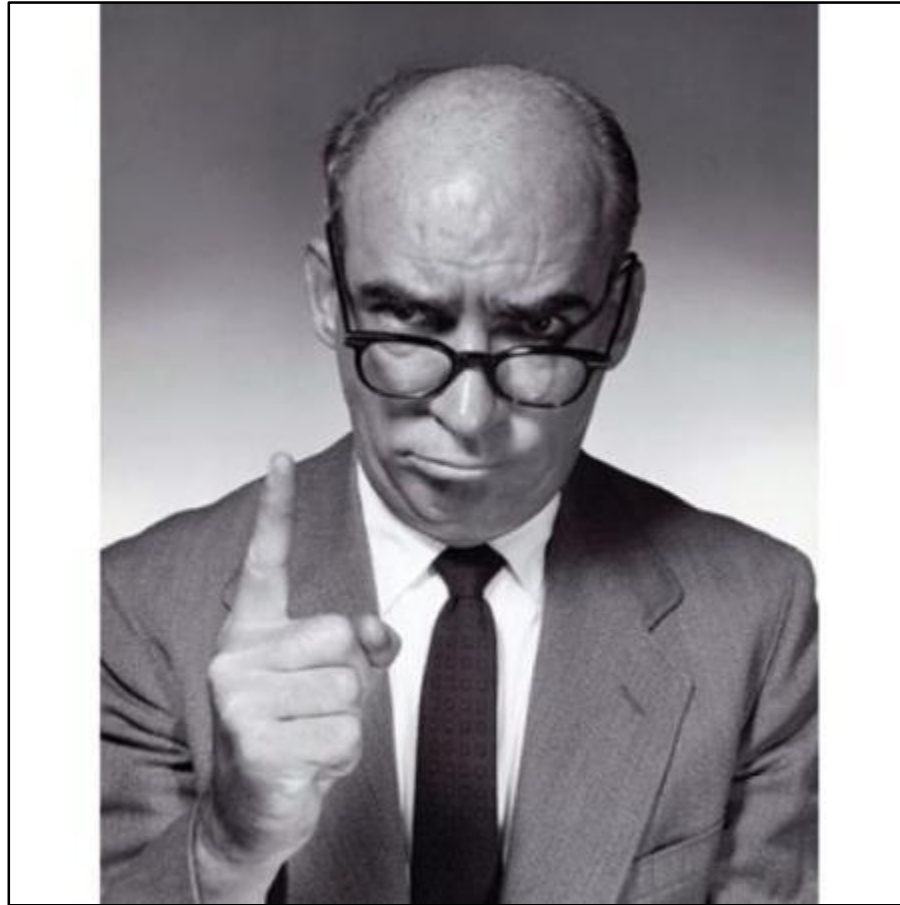
Think about this real life example...

IMPACT & SPREAD OF SOCIAL MEDIA



A Powerful Network of Remarkable Nurses

Just because you can doesn't mean you should

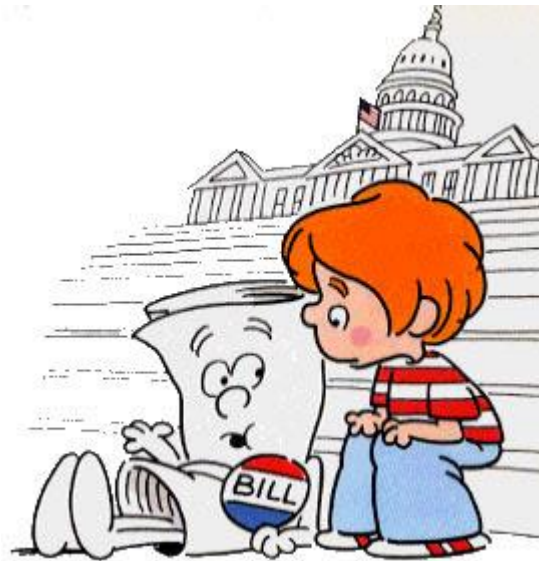


ETHICS DEFINED

- **Moral principles**
- **Govern a person or group's behavior**
- **Basic, fundamental moral correctness**
- **Right human conduct**
- **Inbuilt conscience**
- **Influenced by tradition & culture**

LAW DEFINED

- A government rule or decree
- Codify more details of conduct
- Violation carries penalty



LAW VS. ETHICS

- **Come from outside**
- **Rigid**
- **Tend to multiply**
- **Inherent moral sense**
- **More situational**
- **No governmental presence**
- **Choice regarding adherence**

Both are about behavior

We expect them to coincide but they often don't

ANA CODE OF ETHICS

- **Statement of ethical obligations & duties**
- **Applies to every nurse in every setting**
- **Profession's non-negotiable standards**
- **Nursing's own understanding of its commitment to society**
- **Founded on premise of respect for human dignity**

PROVISION ONE

- All practice relationships
- **Respect for inherent**
 - **Dignity**
 - **Worth**
 - **Uniqueness of every individual**
- Unrestricted by
 - Social or economic status
 - Personal attributes
 - Nature of health problem

PROVISION TWO

- The nurse's primary commitment is to the patient
 - Individual
 - Family
 - Group
 - Community
- **Recognize & maintain boundaries**
 - Limit relationships appropriately
- **TRUST**

PROVISION THREE

- The nurse promotes, advocates for, & protects patient
 - Rights
 - Health
 - Safety
- Protection is key word
 - Patient information
- **Privacy & confidentiality**
- **TRUST**

PRIVACY & CONFIDENTIALITY

- **The need for health care does not justify unwarranted intrusion into patient's life**
- **Patient's well-being jeopardized & fundamental trust destroyed**
 - **Unnecessary access to data**
 - **Inappropriate disclosure of identifiable patient info**

REVISIONS TO CODE OF ETHICS

- **Acknowledge challenges posed by social media explicitly**
- **Duty to maintain confidentiality in all venues whether on duty or off**



MAINTAINING BOUNDARIES

Both a legal & ethical obligation

- **State law (4723.28 (B)(31) ORC)**
 - **Establish & maintain professional boundaries**

Professional Boundaries in Nursing

MAINTAINING BOUNDARIES

Board rules

- **Delineate, establish & maintain professional boundaries** (Rule 4723-4-06 (I) OAC)
- **Provide privacy during examination & treatment** (Rule 4723-4-06 (J) OAC)
- **Treat patient with courtesy, respect & full recognition of dignity & individuality** (Rule 4723-4-06 (J) OAC)

MAINTAINING BOUNDARIES

Nurses shall not:

- **Cause physical, verbal, mental, or emotional abuse to a patient** (Rule 4723-4-06 (K) OAC)
- **Misappropriate a patient's property** (Rule 4723-4-06 (L) OAC)
 - Obtain personal gain at patient's expense
- **Be inappropriately involved in patient's personal or financial relationships**

MAINTAINING BOUNDARIES

Nurses shall not:

- Engage in sexual conduct with a patient
- Engage in verbal behavior that is seductive or sexually demeaning to a client

Patient always presumed incapable of consenting to these activities

(Rule 4723-4-06 (M)(OAC))

CONFIDENTIALITY

Nurses shall:

- **Maintain confidentiality of patient information**
 - Communicate information with members of the health care team for health care purposes only
- **Disclose identifiable patient information only with consent**
 - Limited circumstances when law requires disclosure

(Rule 4723-4-03 (H-J) OAC)

MAINTAINING BOUNDARIES

Recent revisions/updates:

Nurse shall not disseminate patient information for other than patient care or to fulfill the nurse's assigned job responsibilities through social media, texting, email, or any form of communication

Rules 4723-4-03 & 4723-4-04 OAC

Also applies to nursing students via required school policies

Rule 4723-5-12 (C)(24) & (26) OAC

RAMIFICATIONS OF MISUSE

- **Licensure action**
- **Civil/criminal penalties**
- **Personal liability**
 - **Defamation**
 - **Invasion of privacy**
 - **Harassment**
 - **Patient abuse/exploitation**
- **Loss of job**

SOCIAL MEDIA & BOUNDARIES

- **71% Boards of Nursing have received complaints**
 - Posting photos
 - Sharing information
- **78% took disciplinary action**



BENEFITS & RISKS OF SOCIAL MEDIA

Benefits

- Networking and Nurturing
- Exchange of knowledge
- Forum for collegial interchange
- Dissemination of education, research, and best practice.
- Educating the public

Risks

- Inaccuracies become fact.
- Breach of patient privacy
- Public trust of nurses compromised
- Individual careers undermined

MYTHS

- **Post is private & accessible only to intended recipient**
- **Content once deleted is no longer accessible**
- **If accessible only to intended recipient it is okay**
- **Okay to discuss if don't refer to patient by name**

MYTHS

- **“It is my Post”- Really you lose all control or right to the info once posted.**
- **“It was just one picture”- Can be changed and/or duplicated--photoshop**
- **“The person gave me permission”**
- **“There was nothing negative”**
- **“I did not violate HIPAA rules” “I didn’t say what patient”**
- **“I took it down right away so no problem”**

SUMMING IT UP

- **Ethical/legal expectations**
 - Treat person with dignity
 - Do not cause emotional abuse
 - Do not become inappropriately involved in patient's personal relationships
 - Maintain confidentiality
- **Social media presents significant challenges**

GUIDELINES TO AVOID PROBLEMS

- **Recognize legal & ethical obligation to maintain patient privacy & confidentiality at all times**
- **Transmit any patient-related image via electronic media with extreme care**
- **Remember patient right to confidentiality applies even with electronic media**

GUIDELINES TO AVOID PROBLEMS

- **Don't post any information gained in the nurse-patient relationship**
- **Don't take photos or videos of patients on personal devices**
- **Use caution when having online contact with patients or former patients—**
 - befriending patients not advisable
- **Use professional titles when communicating via email**
 - Avoid suggestive email addresses such as “foxy lady”

GUIDELINES TO AVOID PROBLEMS

- **Consult employer or leadership within an organization for guidance regarding work-related postings**
- **Report promptly any identified breach of confidentiality or privacy**



GUIDELINES TO AVOID PROBLEMS

- **Don't make disparaging remarks about employer or co-workers**
 - Threatening
 - Harassing
 - Profane
 - Obscene
 - Sexually explicit
 - Racially derogatory
 - Homophobic



ONA STATEMENT

- **Avoid filming, recording, photographing care situation without**
 - **Full institutional authorization**
 - **Informed consent of participant**
 - **How material will be used**
 - **Who will have access to it**
 - **Removal of all patient identifiers**
 - **May also need to remove institutional identifiers**

ONA STATEMENT

Employer policy covering patients, families & visitors

- **Protect employees from unwanted intrusions via social media without consent**
- **Patients should be protected from accidental invasion of their privacy**
- **Policy detailing proper use of cell phones & other forms of information technology should be presented on admission**

ONA STATEMENT

- Employer policy covering patients, families & visitors**
- **Signs detailing proper use of social media should be prominently displayed & written information provided to family members & visitors**
 - **Patients, family members & visitors subject to same restrictions relative to picture taking as caregivers**

ONA STATEMENT

The cultural climate that should be supportive of the privacy rights of employees as well as consumers

TIPS

- **Observe ethically prescribed professional patient-nurse boundaries**
- **Understand that patients, colleagues, institutions, & employers may view posts**
- **Take advantage of privacy settings so as to separate personal & professional information online**

ANA PRINCIPLES

- **Observe ethically prescribed professional patient-nurse boundaries**
- **Understand that patients, colleagues, institutions, & employers may view posts**
- **Take advantage of privacy settings so as to separate personal & professional information online**

ANA PRINCIPLES

- **Bring content that could harm a patient's privacy rights or welfare to the attention of proper authorities**
- **Participate in developing institutional policies governing online conduct**
- **Know & comply with employer policies regarding use of electronic media**

REMEMBER

- **Standards of professionalism are the same whether online or in other circumstances**
- **Nurses must maintain professional boundaries even when online contact with patients blurs this boundary**

REMEMBER

- Remember offensiveness is in the eye of the beholder—even appearance of injudicious behavior can lead to problems
- Don't use social media to vent frustrations

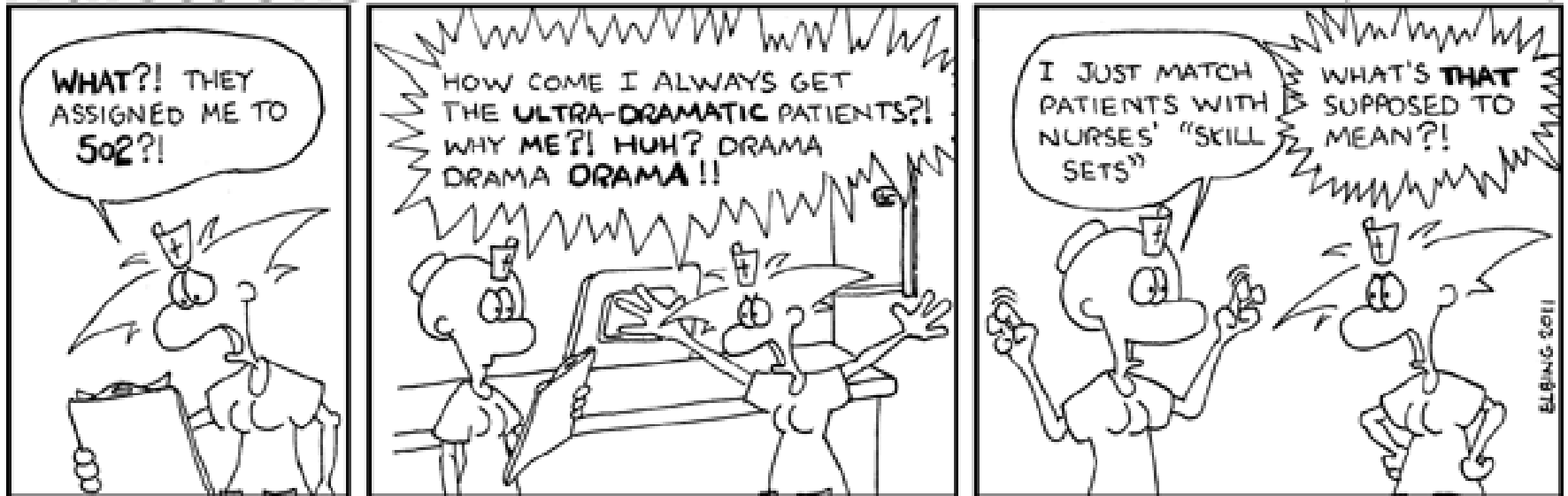


REMEMBER

- Social media are here to stay
- Must adapt but do so cautiously

Nurstoons

by Carl Elbing



www.nurstoon.com

MORE EXAMPLES



== PLEASE ==



A Powerful Network of Remarkable Nurses

REFERENCES

- **American Nurses Association. (2010 & 2015). Code of ethics for nurses. Washington, DC: Author.**
- **National Council of State Boards of Nursing. (2011). A nurse's guide to the use of social media. Chicago, IL: Author.**
- **Nurse Practice Act, 4723 Oh Rev. Code §4723.28 (2015)**
- **Nursing education program, Rule 4723-5-12 Oh Admin Code (2015)**
- **Standard of practice relative to registered nurse or licensed practical nurse, Rules 4723-4-03 and 4723-4-06 Oh Admin Code (2015)**